



STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES
PUBLIC HEARING TESTIMONY OF
COMMISSIONER SUSAN I. HAMILTON, M.S.W., J.D.

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HUMAN SERVICES COMMITTEE
FEBRUARY 24, 2009

Good morning Senator Doyle, Representative Walker and distinguished members of the Human Services Committee. My name is Susan Hamilton, and I am Commissioner of the Department of Children and Families. I appreciate the opportunity to provide testimony on several bills pending before you today.

H.B. No. 6403 AN ACT CONCERNING ACCESS OF RECORDS OF CHILDREN AND FAMILIES

The Department of Children and Families has submitted H.B. No. 6403 AN ACT CONCERNING ACCESS OF RECORDS OF CHILDREN AND FAMILIES to the Human Services Committee for your favorable consideration and we would like to take this opportunity to thank you for raising this bill on our behalf.

This bill revises, updates, and reorganizes section 17a-28 of the general statutes, DCF's confidential records law. In general, DCF cannot disclose information created or obtained in connection with its child protection activities or other activities related to a child while that child is in its care or custody without (1) obtaining permission from the subject of the record or an authorized representative or (2) legal authorization to do so without the subject's consent. Existing law specifies a number of officials and entities to whom DCF must disclose information that would otherwise be confidential and, in most cases, states the limited use the recipients can make of the information. The current statute also lists people and entities with whom DCF may share information when the Commissioner or her designee determines disclosure to be in the best interests of the person who is the subject of the record.

One purpose of HB 6403 is to reorganize the statute for clarity and ease of application to real life events. This has been done by placing all of the mandatory disclosure sections together in subsection (g), and all of the discretionary disclosures together in subsection (h). Another purpose of HB 6403 is to update the list of officials and entities to whom records shall or may be released. These updates amend language that has unnecessarily restricted the Department from sharing information with other state agencies and service providers, with resulting inefficient delivery of services to families. The proposed language also permits some additional limited disclosure of information to law enforcement and other entities in order ensure the safety and well-being of children.

A summary of the amended provisions of CGS 17a-28 follows.

New Required Disclosures

Under the proposal, DCF must disclose records without the subject's consent to:

- (1) DCF foster care and adoption contractors, for the purpose of identifying and assessing potential placements for the child who is the subject of the record, so long as no information that identifies biological parents is disclosed without their consent;
- (2) foster or prospective adoptive parents, but only records relating to social, medical, psychological, or educational needs of children currently placed with them or being considered for placement, and so long as no information that identifies biological parents is disclosed without their consent;
- (3) employees of the Board of Pardons and Parole, Department of Correction, and the Judicial Branch, for the purposes of assessing treatment needs and determining terms or conditions of pretrial release; pretrial or post-disposition detention; or incarceration, probation, or parole;
- (4) employees of the Department of Mental Health and Addiction Services, for the purpose of treatment planning for young adults who have transitioned from DCF care;
- (5) legal counsel representing DCF during the course of a legal proceeding involving the department or a DCF employee;
- (6) Superior Court judges in criminal prosecutions, for purposes of an in camera review if (a) the court has ordered that it be given the record or (b) a party to the proceeding has subpoenaed the record; and
- (7) courts or public agencies in other states and federally recognized Indian tribes which are responsible for child protection or provide services to families involved in the child welfare system.

The proposal also expressly authorizes disclosure of records to any DCF employee for any purpose reasonably related to the Department's business.

New Discretionary Disclosures

Under this proposal, DCF is permitted to disclose records without the subject's consent to:

- (1) individuals it interviews in abuse and neglect investigations who are not otherwise entitled to this information, but disclosure is limited to (a) the general nature of the allegations, (b) the child's identity, (c) the alleged perpetrator, and (d) the information necessary to further the course of the investigation;
- (2) mental health professionals who work for schools or have direct responsibility for implementing the educational plan of a child receiving DCF services, but disclosure is limited to information reasonably necessary for the provision of educational services;

(3) people attempting to locate a missing parent or child, but disclosure is limited to information that assists them in doing so;

(4) courts of competent jurisdiction, when a DCF employee has been subpoenaed to testify about the record's contents; and

(5) people not employed by DCF who arrange, perform, or assist in performing functions or activities on DCF's behalf, including data analysis, processing, aggregation, or administration; utilization review; quality assurance; practice management; consultation; and accreditation services.

Changes in Permissible Uses of Disclosed Records

Current law does not limit the use a law enforcement agency can make of records DCF discloses to it. The proposal specifies that disclosure is for the purpose of investigating cases of suspected child abuse. It also gives DCF the discretion to disclose records to police and prosecutors when the department has reasonable cause to believe that a child is the victim of a crime involving abuse or neglect.

The proposal also restricts prosecutors' access to juvenile delinquency records. Current law gives prosecutors access to records for purposes of investigating or prosecuting child abuse or neglect allegations. Under the proposal, access to records concerning a delinquency defendant who is not being charged with an offense related to child abuse is permitted only (1) if the defendant signs a release and (2) while the case is being prosecuted.

Changes in Disclosure Procedures

People Who Can Authorize Disclosure on a Child's Behalf. The proposal eliminates the authority of a parent to view his or her child's records or give consent to their disclosure once parental rights have been terminated. It adds a child's guardian ad litem (a person appointed by the court to represent a child's best interests) to the list of those persons authorized to access the child's records and to authorize disclosure. Currently only the child's attorney, parent, guardian, or conservator can authorize disclosure of the contents of the child's records.

Disclosure When Incident Has Been Publicized. Under current law, when an incident of abuse or neglect has been made public or the DCF Commissioner reasonably believes this will occur, the Commissioner can publicly disclose whether DCF received a complaint and provide a general description of actions taken by the agency, so long as the Commissioner does not disclose personally identifying information about (1) the victim or family, or (2) the suspected abuser unless that person has been arrested for the underlying conduct.

The proposal adds a provision allowing DCF to confirm or deny the accuracy of information that has been made public and generally describe the case's current legal status. Further, it specifies that the prohibition on disclosing identifying information about victims and their families applies even when this information is available from other sources.

Disclosure in Custody Matters. Currently, DCF records can only be disclosed to parties in neglect, abuse or termination of parental rights cases. Under this proposal, disclosure extends to all types of custody cases, including divorce, but only to necessary parties to the case and judges.

Further Disclosure of Record. Current law prohibits information that is disclosed from a person's record from being further disclosed without consent unless it is disclosed pursuant to an order issued by a court in which a criminal prosecution or an abuse, neglect, or termination of parental rights proceeding involving the record's subject is pending.

This proposal permits further disclosure based on an order issued by any court of competent jurisdiction.

Additionally, this proposal permits parties to civil litigation to petition the juvenile court for an order authorizing disclosure to other parties in the litigation. The court can grant the order after reviewing the records in question and determining whether the records are material and relevant and that good cause for disclosure exists. It specifies that "good cause" includes situations in which the party seeking the record has no other means available to obtain the information.

Denying Access to Records. Under current law, the DCF Commissioner can refuse to disclose a record to the person who is the subject of the record when the Commissioner determines that disclosure is not in the person's (or representative's) best interests, so long as the Commissioner gives her reasons in writing and advises the person that he or she may challenge this action in court.

Under this proposal, the Commissioner retains the authority to refuse to disclose records, but the basis for doing so is no longer restricted to considerations of the subject's best interests. Additionally, when the Commissioner refuses a request, the proposal requires that she notify the requestor of the general nature of the records being withheld, in addition to providing her reasons and notice of judicial review options.

The proposal also expands the reasons courts may use to uphold DCF's non-disclosure decisions. Currently, after a hearing and private review of the challenged records, the court must order disclosure unless it determines that this could be contrary to the requestor or requestor's representative's best interests. Under the proposal, the court may also uphold the Commissioner's non-disclosure decision when it determines that disclosure (1) would be contrary to the best interests of the person who is the subject of the record, (2) could reasonably result in the risk of harm to any person, or (3) would contravene the state's public policy.

It is the Department's position that this bill continues to protect the important confidentiality rights of the children and families we serve while allowing some appropriate discretion to share information when necessary, particularly for purposes of treatment planning and provision of services when clients are receiving services from multiple agencies.

S.B. No. 955 AN ACT CONCERNING AUTHORIZATION OF A TREATMENT PLAN FOR A CHILD'S OUTPATIENT PSYCHIATRIC AND COUNSELING SERVICES

The Department of Children and families supports the intent behind **S.B. No. 955 AN ACT CONCERNING AUTHORIZATION OF A TREATMENT PLAN FOR A CHILD'S OUTPATIENT PSYCHIATRIC AND COUNSELING SERVICES**. This bill emanates from a provision of DCF regulations concerning Licensure of Outpatient Psychiatric Clinics for Children. Subsection (I) of section 17a-20-42 of the Regulations of Connecticut State Agencies provides that "The treatment plan shall be signed by the chief administrator of the clinic or his designee; the child, if he is capable of doing so, and the child's parent or guardian." The intent behind this provision is to ensure the youth's engagement in the development of care plans for the youth and family and to promote their active participation in treatment.

Issues regarding the sign-off of the treatment plan by a child have been raised periodically during licensing reviews conducted by the Department. In most cases the current practice is consistent with the requirements of this regulation; however, to eliminate the formal sign-off by the child would not likely be detrimental to the treatment planning process.

H.B. No. 5416 AN ACT CONCERNING THE TRANSITION OF CARE AND TREATMENT OF CHILDREN AND YOUTH FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE DEPARTMENTS OF MENTAL RETARDATION AND MENTAL HEALTH AND ADDICTION SERVICES

The Department of Children and Families opposes **H.B. No. 5416 AN ACT CONCERNING THE TRANSITION OF CARE AND TREATMENT OF CHILDREN AND YOUTH FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE DEPARTMENTS OF MENTAL RETARDATION AND MENTAL HEALTH AND ADDICTION SERVICES** as currently drafted.

This bill would require the Department of Children and Families (DCF) and the Department of Mental Health and Addiction Services (DMHAS) to develop and implement an interagency agreement regarding the transition of care of children and youth from DCF to DMHAS and to submit annual reports to the Community Mental Health Strategy Board and certain committees of cognizance of the General Assembly on the transition process for young adults from DCF to DMHAS.

DCF is committed to working with the Office of the Child Advocate and the Department of Mental Health and Addiction Services in coming up with a reporting mechanism that can be accomplished within existing resources. Last year we had worked collaboratively on legislation that would have minimized, but not eliminated, the fiscal impact of this type of requirement. Unfortunately, this bill as written would result in a considerable fiscal impact and does not appear consistent with the language that had been agreed to last session.

We believe that much progress has been made in addressing the transition of youth from DCF to DMHAS in the past few years and support any and all interagency efforts to continue that

progress and to address current challenges to ensuring effective and successful transition of youth.

H.B. No. 6399 AN ACT CONCERNING CHILD PROTECTION

The Department of Children and Families supports H.B. No. 6399 AN ACT CONCERNING CHILD PROTECTION, which makes several changes to existing law to clarify and update language to allow the Department to better serve children and families.

First, new language in **Section 1** specifically allows the Department to provide all necessary medical or mental health care when a child is placed in DCF's temporary custody by the court. Current law is not clear on this point, and treatment is occasionally delayed because the parent or guardian is not immediately available to give consent. (The new language will not permit elective medical procedures without a parent's or guardian's consent.)

Section 2 was intended to resolve a current conflict in existing law and clarifies that the Commissioner's legal guardianship of children committed as neglected, abused or uncared for formally ends at age 18, but young adults may currently continue to voluntarily receive services up to age 21. However, the current language of this bill appears to extend services for an additional year up to the age of 22. The Department recommends revising the language in line 96 to reference the correct age limit of 21.

Section 3 adds an additional court review for children under age 6 to be held six months after an approved permanency plan of reunification with the parents, in order to assess the progress of the parents and status of the case earlier than allowed for under existing law. The proposed language specifically allows the court to update the Specific Steps, which are court orders directing the parents and the Department to take certain actions to promote reunification.

Section 4 resolves the common issue of the sometimes overlapping jurisdiction between the Probate and Superior Courts, when both courts are involved with a family. The proposal defines when a case must be transferred to the juvenile court, promotes efficiency and judicial economy, avoids situations in which conflicting court orders are issued, and helps to ensure that a single court has a complete picture of the entire case and the dynamics of the family.

Section 5 is an amendment to section 17a-28 of the General Statutes and can be consolidated with HB 6403.

Section 6 clarifies the circumstances under which a person's substance abuse records may be subpoenaed to court and offered into evidence. This provision is necessary to ensure that the court has complete information about the status and rehabilitation of a parent.

Section 7 allows the Superior Court to finalize adoptions in those cases in which the court has terminated parental rights. Currently, only Probate Courts can finalize adoptions, which means that after parental rights are terminated in Superior Court, an application for adoption must then

be filed in Probate Court. This can unnecessarily delay adoptions and may be an inefficient use of Probate Court resources.

Section 8 expands the grounds for termination of parental rights in situations where a parent has killed a child in his or her custody. Currently, parental rights to surviving children can only be terminated if the child who was killed is their sibling. Consequently, the Department cannot use this ground, for example, when a parent kills his or his stepchild or other child not biologically related.

And, finally, **Section 9** adds one word to the existing statute regarding hearsay evidence of a statement of a child who is the victim of physical abuse or a sex offense. Currently, the language applies to "criminal or juvenile" matters. There has been confusion over whether this provision is meant to apply only to prosecutions of criminal or delinquency matters, or whether it was meant to include all types of juvenile court cases. We believe that the context is clear that it applies only to the latter and, thus, the word "delinquency" is added to resolve the confusion.

In summary, the statutory changes proposed in HB 6399 cover a number of circumstances in which current laws are inefficient, unclear, or insufficient to promote the safety, well-being and permanency of children. Accordingly, we urge the Committee to vote favorably on this bill.

**H.B. No. 6415 AN ACT ESTABLISHING A PILOT PROGRAM FOR THE
DEPARTMENT OF CHILDREN AND FAMILIES TO PLACE ABUSED AND
NEGLECTED CHILDREN IN THE CARE OF FAMILIES RATHER THAN IN
INSTITUTIONS**

While the intent behind **H.B. No. 6415 AN ACT ESTABLISHING A PILOT PROGRAM FOR THE DEPARTMENT OF CHILDREN AND FAMILIES TO PLACE ABUSED AND NEGLECTED CHILDREN IN THE CARE OF FAMILIES RATHER THAN IN INSTITUTIONS** is laudable, the Department of Children and Families is **opposed** to enacting a pilot program as called for in this bill. In essence, this bill proposes to create a "pilot" program whereby certain children would be "selected" for placement with a family rather than an institutional or congregate care setting and that selected children currently in an institutional or congregate facility would simply be "transferred" to a family setting. It is already the Department's current practice statewide to make every effort to provide a family setting for every child in the Department's care and custody when that is in the child's best interests based on his or her unique needs and circumstances.

The Department has been actively engaged in reducing the number of children in out-of-home care and has also worked to establish more placements options in smaller settings for those children requiring a higher level of care. Since January 2002, 1,318 more families (46%) receive services in cases where the children are living in their homes (*Feb. 2009 - 4,153; Jan. 2002 - 2,835*). There are 1,153 fewer children (18.1%) in out of home care as the result of abuse or neglect compared to 2004, and 1,813 fewer children (25.9%) compared to 2000 (*Feb. 2009 - 5,188; Jan. 2004 - 6,341; Jan. 2000 - 7,001*).

Children entering DCF care are more likely to be placed in a family setting (*foster care, relative care or special study home*). Children placed with a family increased by 15 percentage points since 2002. (*Calendar Year 2008 -- 68 percent of children placed in a family setting -- the highest on record; Calendar Year 2002 -- 57 percent of children placed in a family setting*). As reflected in the below chart, this figure rises to over 72% when you also include youth living in the community as part of our independent living program.

Children in Placement (as of 2/23/09)

DCF FACILITIES	195
FOSTER CARE	2,670
RELATIVE CARE	831
SPECIAL STUDY	270
INDEPENDENT LIVING	128
MEDICAL	32
RESIDENTIAL	680
GROUP HOME	443
PDC/SAFE HOME	114
SHELTER	78
TOTAL	5,441

In addition, it is important to note that some children's clinical and individual needs may require placement in group homes, residential placement settings, and inpatient facilities, and those placement options are a necessary component of our service continuum. The goal is to ensure that children are placed in those settings only as long as their clinical needs require, and I am happy to report that we have significantly reduced the length of time children spend in these settings once they are deemed clinically ready for discharge.

Again, I appreciate the opportunity to provide this testimony, and I'd be happy to answer any questions you might have.